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Hon. Frank L. Kurtz

7 UNITED STATES BANKRUPTCY COURT
8 EASTERN DISTRICT OF WASHINGTON

9 In re:

10 EARL, THOMAS JAY
11 EARL, GAIL ALICE

12 Debtors.

No. 06-01339-FLK13

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

13 THIS MATTER having come on for hearing in open court on January 23,
14 2007, the Court having considered the files and pleadings herein, the testimony of
15 Debtor Thomas J. Earl, the testimony of Jeffrey Earl, exhibits 1-20 introduced by the
16 debtors, exhibits 101-109 and 114-115 introduced by Creditor Charles Schlesinger,
17 and arguments of the creditor, the trustee's lawyer, and the debtors' lawyer, the Court
18 makes the following findings of fact:

- 19 1. All fees, charges, or amounts required by 28 USCS § § 1911 et seq., or
20 by the plan, to be paid before confirmation, have been paid.
21 2. The value of the debtors' property is \$36,919.79.
22 3. The value of the claim secured by the 2002 BMW is \$11,927.48.
23 4. The value of the secured claim held by the IRS is \$24,919.95.
24 5. The value of the debtors' proposed Plan payments is \$110,091.38.
25 6. The debtors' net monthly income at the time of filing was \$4,231.97.
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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 1

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1 7. The reasonable and necessary living expenses as of September 5, 2006
2 were \$2,580.29 per month.

3 8. The debtors currently have \$1,651.68 available each month to pay to the
4 Chapter 13 Trustee for funding their Plan for the first 42 months, and will have
5 \$1,984.49 available each month to pay to the Chapter 13 Trustee commencing
6 February, 2012 for the remaining 18 months.

7 9. No secured creditor has objected to the debtors' Plan.

8 10. The debtors will be able to make all payments under the Plan and to
9 comply with the Plan.

10 11. The Plan has not been proposed by any means forbidden by law.

11 12. The debtors owe no domestic support obligations.

12 13. The debtors have filed all applicable federal, state, and local tax returns
13 as required by section 11 USCS § 1308.

14 14. Debtor Thomas Earl has been employed by his current employer
15 (including its predecessor in interest) since March 15, 2004.

16 15. The classes of creditors are treated as permitted by the Bankruptcy Code.
17 No secured claims are modified.

18 16. The debtors are not seeking to discharge any debt that would be
19 nondischargeable in chapter 7, with the possible exception of IRS penalties.

20 17. The debtors filed a previous chapter 13 case on April 20, 1989 (Case No.
21 89-1303) and received a discharge on October 3, 1994.

22 18. In the event the debtors were liquidated under chapter 7 of the
23 Bankruptcy Code, unsecured creditors would not have received a dividend.

24 19. A liquidation of the debtors' non-exempt assets would have provided
25 dividends only for secured, priority, and administrative creditors.

26 20. The debtors' petition was filed in good faith.
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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 2

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1 21. The debtors filed a petition for relief because they owed debt to
2 creditors, including judgment creditors, and the Internal Revenue Service, that they
3 could not pay.

4 22. Mr. Earl's income declined with the loss of his license to practice law.

5 23. The debtors' Plan is proposed in good faith.

6 24. The debtors' Plan meets the chapter 7 liquidation test.

7 25. The debtors are paying all of their disposable income into the Plan.

8 26. The Plan pays priority claims in full during the term of the Plan.

9 27. The Plan does not pay administrative claims to the debtors' lawyer
10 during the term of the Plan, but that claimant has accepted a different treatment.

11 28. The Plan complies in all other respects with chapter 13 of the Code.

12 29. The debtors are using chapter 13 for legitimate purposes and for the kind
13 of purpose for which chapter 13 is designed.

14 30. The debtors have acted equitably in proposing their Chapter 13 Plan.

15 31. The debtors have not misrepresented facts in their Plan or unfairly
16 manipulated the Bankruptcy Code.

17 32. The debtors have honestly and generally accurately completed their
18 schedules, their petition, and their statement of affairs.

19 33. Inaccuracies and omissions were corrected or disclosed, were not
20 material, and were honest mistakes.

21 34. The debtors generally have complied with discovery orders and requests
22 of the court.

23 35. During the years 2001 through 2003, debtors did not have more assets
24 or income than they have disclosed or currently disclosed.

25 36. The debtors sold their interest in the 1993 20 foot ProComp Runabout
26 boat, HIN BCP02117F393, ("Ski Boat") some years before the petition was filed.

1 37. The Ski Boat was owned by Jeffrey Earl at the time the petition was
2 filed.

3 Based upon the court's findings of fact, the court enters the following
4 conclusions of law:

- 5 1. The court has jurisdiction over the debtors and the Chapter 13 Plan.
6 2. The debtors' Chapter 13 Plan, as modified, meets all the statutory criteria
7 of 11 U.S.C. 1325 and should be confirmed.

8 Presented by:

9 PHILLABAUM, LEDLIN, MATTHEWS
10 & SHELDON, PLLC

11 
12 IAN LEDLIN
13 Lawyer for Debtors

14 No Objections:

15 OFFICE OF CHAPTER 13 TRUSTEE

16 
17 BEVERLY A. BENKA
18 Lawyer for Chapter 13 Trustee

19 No Objections:

20 
21 CHARLES SCHLESINGER
22 Creditor *Pro Se*

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Frank L. Kurtz
Bankruptcy Judge

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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 4

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